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Minutes of the
New Mexico Water Quality Control Commission Meeting
August 8, 2000

The New Mexico Water Quality Control Commission (WQCC) held its meeting on August 8, 2000, at 9:00 a.m. at the State Capitol Building, Room 317, Corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico. The following members were present.

Present:

Peter Maggiore	New Mexico Environment Department
Thomas C. Turney	State Engineer Office
Bill Olson	Oil Conservation Division
David Johnson	State Parks Division
Ricardo Rel	Department of Agriculture
Jack Kelly	Department of Game & Fish
Howard Hutchinson	Soil & Water Conservation Bureau
Lynn Brandvold	Bureau of Mines & Mineral Resources
Paul Gutierrez	Member-at-Large
Irene Juliana Lee	Member-at-Large

Members Not Present:

Steven J. Glass	Member-at-Large
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Others Present:

Daniel Ruben	WQCC Counsel
Tamella L. Lakes	WQCC Administrator
Albert Mendez	United States Air Force
Gavin Strathdee	Madrid Water CO-OP
David Richardson	Molsen, Corbin, & Assoc.
Kathryn M. Pilnock	Lamy MDWUA
Qustrand Kasssieh	City of Santa Fe
Reymundo Gutierrez	City of Albuquerque
Patrick Banegas	Anthony Water & Sanitation District
Michael Quintana	Office of the Governor

John Jones	Eitramose Water & Wastewater
Nick Ashcroft	West Hammond Domestic
Patrick Hanson	NMED/SWQB
Bruce Gallaher	LANL
Cheryl James	NMOCAB
Scott Hopkins	NMED/SWQB
Steven Pierce	NMED/SWQB
Gary Schiffmiller	NMED/SWQB
Mike Saladen	LANL
Bruce Thomson	UNM
Ralph Ford-Schmid	NMED/DOE
Barry Imler	US Forest Service
Julie Maitland	NMDA
Steve Hattenbach	NMED/OGC
Kristen Dors	EPA/NMED
Scott Anderholm	USGS-WRD
Michael Roark	USGS
Erik Galloway	NMED
Elizabeth Lee	Lower Valley Water Users
Keith Lee	Lower Valley Water Users
Jim Dunlap	Upper La Plata Water Assoc.
Charlie Barnett	Johnson Controls
John Eckley	City of Bloomfield
Rob Eckley	City of Bloomfield
Benny Coker	Capitan Water Assoc.
Dr. Jim Davis	NMED/SWQB

Item 1 - Roll Call.

Tamella L. Lakes, WQCC Administrator took roll call. Chairman Maggiore remarked on the absence of Commissioner Steven Glass. Chairman Maggiore stated that the appointment of Mr. Glass has been challenged pursuant to 74-6-3b of the New Mexico Water Quality Act and that is why he is absent.

Item 2 - Approval of the Agenda

Mr. Johnson moved to approve the agenda. Mr. Olson seconded the motion. The motion passed unanimously.

Item 3 – Approval of the minutes of the July 11, 2000 meeting.

Mr. Olson moved to approve the July 11, 2000, minutes as amended. Mr. Johnson seconded the motion. The motion passed unanimously.

Item 4 – Approval of the minutes of the May 9, 2000 meeting.

Mr. Johnson moved to approve the May 9, 2000, minutes. Ms. Brandvold seconded the motion. The motion passed unanimously.

Item 5 - Appointment of members to the Utility Operators Certification Advisory Board.

Mr. Charles Barnett and Ms. Cheryl James, members of the Utility Operators Certification Advisory Board sat with the Commission for this agenda item.

Ms. Brandvold stated that the concern in most of the letters sent to the WQCC seems to be the lack of representation on the Board for small water systems.

Ms. James stated that the Board does have two members that are very outspoken in their representation of small water systems. They are Robert George and Martin Lopez.

Mr. Patrick Banegas, General Manager of the Water and Sanitation District in Anthony New Mexico and a member of the Board of Directors of the NM Rural Water Association addressed the Commission. Mr. Banegas stated that there are over 900 small community water systems in New Mexico. The larger municipalities have somewhere in the neighborhood of 25 to 35 systems. In the letter he sent to Chairman Maggiore he urged the Commission to consider the number of small systems that are served in the rural community. They must meet the same certification requirements as any other community system, regardless of the size. Mr. Banegas stated that he supports the NM Rural Water Associations request to look at restructuring the Advisory Board to include sustained representation for small water systems. Mr. Banegas urged the Commission to consider the nomination of John Eckley to a second term on the NM Utility Certification Advosory Board.

Mr. Jim Dunlap, Director of Upper La Plata Water Users Association and a member of the New Mexico State Rural Water Association stated that the Utility Operators Certification Advisory Board, to his knowledge, does not keep minutes of their meetings. If they do, they are not available to the public. This is not consistent with the Environmental Protection Agency's guidelines for public bodies. Mr. Dunlap stated that Mr. Eckley is their pipeline to what is going on with the Advisory Board. Mr. Dunlap wishes to have affirmative action on standardized testing using the California manuals. They are the basis of 75% of the tests. Mr. Dunlap stated that he believes that one of the reasons why Mr. Eckley was voted off of the Board is because he continued to raise the issue of standardized testing.

Mr. Turney stated that he is trying to promote the formation of small water systems, and at the same time they are not getting proper representation as far as training. The members are not balanced. Mr. Turney asked what the pass/fail rate is for small water system operators.

Mr. Dunlap stated that for small water systems in 1999, 59 operators took the test, 38 passed. In water system level 4, 60 took the test, 11 passed. Distribution 1, 2 took the test, 2 failed. Distribution 2, 3 took the test, 3 failed. Distribution 3, 28 took the test, 25 failed. Mr. Dunlap stated that there has not been a standardized source of information for the test. There is a standardized test called ABC that is used by about 40 states that should be adopted by the State of New Mexico.

Mr. Rubin stated that the representative of the small water systems should bring a regulatory proposal to the Commission to change the standardized test.

Mr. Rubin stated that the EPA Guidelines on Operator Certification Programs published in the Federal Register states that an Advisory Committee should consist of operators, environmental public health groups, the general public, consumer groups, technical assistant providers, utility managers, trainers,

etc. There is no diversity requirement listed based on the size of an operation or geographical location.

Mr. Rubin advised the Commission that it could proceed with the recommendations of the Advisory Board without any legal impediments.

Mr. Turney stated that appropriate certification and pass-fail rates on the tests are very important for the state's protection of water quality. It is also important that the utility system operators be properly trained. To achieve this, there must be an interconnection between the Utility Operators Certification Advisory Board and the NM Rural Water Association.

Mr. Johnson stated that the Department should get with the NMUOCAB along with the concerned parties from the water and wastewater associations and if there is a need to amend the Act or take another look at the regulations, bring those concerns to the Commission at a later date.

Mr. Turney moved to have Mr. John Eckely remain on the NMUOCAB. Mr. Gutierrez amended the motion to include nominating Mr. Reymundo Gutierrez to the Board. Mr. Hutchinson seconded the motion.

Ms. James stated that nominations submitted to the Commission from the Advisory Board are based on the level of certification of the operators, it is not a regional decision.

Roll Call Vote

Peter Maggiore	No
Thomas C. Turney	Yes
Bill Olson	Yes
David Johnson	No
Ricardo Chavez Rel	Yes
Jack Kelly	Yes
Howard Hutchinson	Yes
Lynn Brandvold	No
Paul Gutierrez	Yes
Irene Juliana Lee	Yes
Steve Glass	Absent
Cheryl James	No
Charles Barnett	No

The motion passed. Mr. Eckley and Mr. Gutierrez were appointed to the NMUOCAB.

Chairman Maggiore stated that the Commission should have an agenda item in the near future dealing with the authority of the NMUOCAB and the testing requirements for certified operators.

Item 6 – Formal WQCC approval of the 2000-2002 State of New Mexico 303(d) list.

Mr. Jim Davis, Chief SWQB stated that the 303(d) list is developed based on data that is collected with respect to quality of surface waters measured against standards that the Commission adopts. Given those standards, the determination of inclusion or not of the 303(d) list is a technical decision.

If there is a regulatory decision, it is made via the standards.

Mr. Gutierrez moved to adopt the 2000-2002 State of New Mexico 303(d) list. Ms. Brandvold seconded the motion.

Mr. Hutchinson stated that there were a lot of substantial comments made that are not reflected in the draft 303(d) list. There is data shown in the report that could not possibly support the listing of certain stream segments. The 303(d) list does create litigation and regulatory implications. A description of each stream segment should be included in a record of decision to accurately categorize each stream. Mr. Hutchinson stated that watershed conditions, and their improper management by the Forest Service, are creating most of the impairment to New Mexico streams.

Dr. Davis stated that the 303(d) list is a list of impaired surface waters of the state. It attempts to identify sources and causes of those impairments. Dr. Davis acknowledges that it is not a perfect list, as knowledge is gained about each system, it will be reflected in the 303(d) list as well as all documents adopted by the Commission. The Department has a great deal of confidence in the 303(d) list.

Mr. Rubin stated the Water Quality Act is clear, the Commission passes standards, and those standards are used to develop the 303(d) list. That the statute is very careful in saying that the WQCC regulations shall not specify the methods to be used to prevent or abate water pollution. The Commission is not required to approve the list; it could approve the list in a limited fashion and state that it adequately reflects the standards without commenting on the solutions for repairing the streams.

Ms. Lee stated that she concurs with most of what Mr. Hutchinson stated.

Mr. Gutierrez withdrew his motion.

Mr. Kelly moved to accept the 2000-2002 State of New Mexico 303(d) list. There was no second to the motion. The motion failed.

Mr. Johnson moved to not formally approve the 2000-2002 State of New Mexico 303(d) list. Mr. Gutierrez seconded the motion.

Roll Call Vote

Peter Maggiore	No
Thomas C. Turney	Yes
Bill Olson	No
David Johnson	Yes
Ricardo Chavez Rel	Yes
Jack Kelly	No
Howard Hutchinson	No
Lynn Brandvold	Yes
Paul Gutierrez	Yes
Irene Juliana Lee	Yes
Steve Glass	Absent

The motion passed.

Item 7 – Briefing on the outcome of the Cerro Grande Fire.

The United States Geological Survey (USGS), the United States Forestry Service (USFS), the Environment Department (NMED) and the Department of Energy (DOE) gave a presentation to the Commission on the outcome of the Cerro Grande Fire. The presentation given by the USGS included the use of an overhead projector, (Proxima).

Item 8 – Discussion on establishing a WQCC Budget.

Chairman Maggiore stated that at present, all financial support for the WQCC is taken out of the Department's Water and Waste Management Division. This is done because the Commission is administratively attached to the Department as stated in the Act. In the past the Commission has talked about approaching the legislature to appropriate money for the WQCC. The two ways to allocate money for the Commission would be to have it appear as a line item in the agency's budget or as in the case of the Environmental Improvement Board, have a separate organization code that would be administered by the agency. If a separate organizational code were granted, a statutory change would be necessary.

A list of administrative costs for the Commission was passed out. The list did not include the costs for independent Hearing Officers.

Mr. Johnson stated that a WQCC budget has been submitted in the past to the legislature as a line item within the Environment Department's budget. Mr. Johnson said that he was not sure if the budget did not pass internal review in the Governor's Office or whether the Legislature line itemed it out. The Commission should submit a line item budget to the Legislature that would supplement the agency budget and would cover only administrative and overhead costs.

Mr. Maggiore stated that using a Department Hearing Officer or a Department contract Hearing Officer, has caused a perceived lack of independence among certain parties. Because of this the Department must hire and pay for an independent Hearing Officer.

Mr. Johnson stated that the budget should contain money for contractual services, or put the money in an expansion request, (W-9 form).

Mr. Rubin stated that he would have to do some research on whether the Commission has the authority to enter into a professional services agreement or if it has to be done by the executive agency.

Item 9 – Other Business.

Chairman Maggiore asked to have Patrick Hanson, NMED staff members, members of the Rural Water Association, and other interested parties return for the September meeting of the WQCC to discuss the Utility Operators Certification program.

Item 10 – Next meeting.

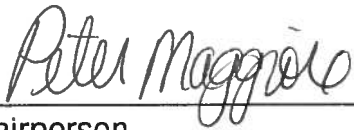
The next meeting of the WQCC will be held on September 12, 2000.

Item 11 – WQCC 00-04 (R) – Hearing to consider proposed amendment to 20.6.1, Standards for Interstate and Intrastate Surface Waters.

Mr. Olson moved to approve the proposed amendment to 20.6.1, Standards for Interstate and Intrastate Surface Waters with the amended language. Ms. Brandvold seconded the motion. The motion passed unanimously.

Ms. Brandvold moved to have Counsel for the WQCC prepare the Statement of Reasons and to allow the Chairman to sign on behalf of the Commission. Mr. Olson seconded the motion. The motion passed unanimously.

Meeting adjourned at 2:25 p.m.



Chairperson